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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA A. WILHELM,
Plaintiff

v.

COMMONWEALTH OF PA.;
PENNSYLVANIA STATE POLICE;
COLONEL PAUL J. EVANKO,
COMMISSIONER; LIEUTENANT
COLONEL THOMAS K. COURY; and
CAPTAIN MICHAEL. D. SIMMERS,
Defendants

NO. 1:CV-01-1057

(JUDGE RAMBO)

FILED
HARRISBURG, PA

NOV 26 2002

MARY E. D'ANDREA CLERK
Per RB
Deputy Clerk

PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANTS'
MOTION TO EXPEDITE PLAINTIFF'S RESPONSES TO
DISCOVERY

I. STATEMENT OF THE FACTS

Plaintiff, Barbara Wilhelm, filed a complaint against defendants Colonel Paul Evanko, former Lieutenant Colonel Thomas K. Coury, Captain Michael Simmers and the Pennsylvania State Police alleging various causes of action under federal and state law. Motion for summary judgment was granted in favor of the individual defendants. Summary judgment was granted in favor of Pennsylvania State Police on all claims except for Ms. Wilhelm's state and federal claims for retaliation.

At the pretrial conference in-house counsel for the defendants, Joanna Reynolds, declared that there were no positions available for the plaintiff within the Pennsylvania State Police. At all times plaintiff sought reinstatement in order to secure full pension benefits.

On September 11, 2002, a jury returned a verdict on favor of the plaintiff and awarded \$250,000 in back pay and compensatory damages. The Court scheduled a trial on equitable relief for the next day to determine whether the plaintiff should be reinstated or awarded front pay. On the day the trial was scheduled, the defendants requested a continuance in order to find positions for which the plaintiff might apply. Plaintiff concurred in this motion. When no suitable position was found, plaintiff contacted the accounting firm of Boyer & Ritter to assist in the calculation of front pay. The trial was rescheduled for October 23, 2002. On October 22, 2002, the plaintiff provided the defendants with her calculation of front pay as prepared by Boyer & Ritter.

At trial on October 23, 2002, counsel for plaintiff attempted to present the information provided to defendants' counsel on the calculation of front pay. Counsel for defendants objected. The Court continued the hearing and subsequently issued an order reopening discovery, and rescheduling trial until January 22, 2003.

The defendants seek to expedite the discovery process.

II. ARGUMENT

The clear purpose of the order to re-open discovery was to permit the defendants to address evidence presented by the plaintiff's expert witness. On November 5, 2002, defendants served 7 interrogatories and 3 requests for documents. (Exhibit A, Defendants' Second Set of Interrogatories and Request for Production of Documents to Plaintiff) Neither the interrogatories, nor the requests for production of documents relate to any evidence presented by the plaintiff's expert. Accordingly, the defendants' expert will know no more about the plaintiff's expert after the submission of the plaintiff's responses than he or she will know before the submission of the plaintiff's responses. Moreover, the defendants could have requested all the requested information during the previous discovery period, but declined to do so.

In addition, this tight timeframe is of the defendants' own making. The defendants waited approximately two weeks before submitting their brief in support of this motion. In so doing, the defendants negated the need for an expedited discovery period by pushing the response time for plaintiff's

responsive brief to within two weeks of the December 9, 2002, due date for plaintiff's responses to the discovery requests.

III. CONCLUSION

For all of the above reasons, the defendants motion to expedite plaintiff's responses to discovery should be denied.

Respectfully Submitted,



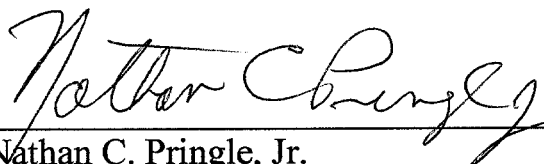
Nathan C. Pringle, Jr.
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Attorney for Plaintiff

November 26, 2002

CERTIFICATE OF SERVICE

I, Nathan C. Pringle, Jr., hereby certify that on November 26, 2002, I caused to be delivered by first-class mail a copy of the foregoing document entitled Plaintiff's Brief in Opposition to Defendant's Motion to Expedite Plaintiff's Responses to Discovery, and served it on the following:

Susan J. Forney
Chief Deputy Attorney General
Office of Attorney General
Litigation Section
15th Floor, Strawberry Square
Harrisburg, PA 17120


Nathan C. Pringle, Jr.